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TAGS: [PGOV](#) [KDEM](#) [IZ](#)
SUBJECT: DE-BA'ATHIFICATION

REF: A. BAGHDAD 136
[1](#)B. BAGHDAD 121

Classified By: Acting POL M/C Yuri Kim for reasons 1.4 (b) and (d).

[1](#)1. (C) SUMMARY: Two proposals -- one political, the other constitutional/legal -- are moving forward in parallel as political leaders work to resolve the current controversy over the possible disqualification of more than 500 candidates from the March 7 election. President Talabani told the Ambassador January 20 that he would like the Presidency Council to issue a statement calling into question the legitimacy of the Accountability and Justice Commission but indicated the Council would likely need the informal support of the Chief Judge of the Supreme Court before proceeding. Badr bloc leader Amiri described for the Ambassador a plan similar to the one he described for Pol M/C two days ago, but with the added element of making the political parties to do a little of the "dirty work" (and take some of the political heat) by reviewing the AJC's list and voluntarily dropping those who clearly identifiable former senior Ba'athists and members of Saddam's security apparatus; the balance of "gray" cases would then be decided on a rolling basis that would likely extend beyond the election for most cases. His plan still retained the oath to the Constitution and condemnation of Saddam's Ba'athist crimes, and left includes the likelihood of some post-election vetting. IHEC Chief Electoral Officer Hamdia al-Husseini (Da'wa) confirmed that the political entities have been notified about the de-Ba'athification decision and that the three-day appeal window would close on January 23. We will be pulsing key players tomorrow to see how much traction the two proposals, which are not necessarily coordinated but do not necessarily conflict with each other, are able to gain and to encourage early resolution. We will also be working with UNAMI to follow the appeals process. END SUMMARY.

TWO PATHS: HAKIM/AMIRI PROPOSAL, PRESIDENCY COUNCIL DECREE

[1](#)2. (C) President Talabani told the Ambassador January 20 that he will hold a meeting of the Presidency Council (himself and the two vice presidents) as soon as VP Adil Abd al-Mahdi returns from Tehran, which he expected in the next day or so, which will focus on the de-Ba'athification crisis. Talabani said he hoped after that meeting to be able to issue a statement expressing the Council's view that the Ahmed Chalabi-led Accountability and Justice Commission (AJC), as currently constituted, had no legal authority to act and that its decisions were not enforceable. Talabani planned to seek an informal opinion from Federal Supreme Court Chief Judge Medhat, before the Council meeting, to affirm that the AJC was acting illegally. Armed with that opinion, the Presidency Council would issue a statement the statement. Talabani hinted, however, if the Chief Judge was unable to render such an opinion, the Council might not be able to issue such a statement. He said there would instead be a need for "a political solution."

¶3. (C) Hadi al-Amiri (Badr bloc leader, affiliated with ISCI) acknowledged to Ambassador January 20 that while the de-Ba'athification issue has been politicized, "we need to move away from politicization; we need to exert all effort to calm public and say it is a technical issue." Amiri said that on January 19 the names of the 511 barred candidates were read before the parliament, with an introductory statement saying that among those 511 people were 182 individuals who were proven members of Saddam's oppressive security and intelligence apparatus (Amiri said those individuals were not the subject of the current controversy), 213 were Ba'ath Party section members, 13 were division members, 105 had received bravery medals from the regime for acts of oppression against the Iraqi people, 5 were members who participated in suppressing the Shaabaniya uprising in southern Iraq, and 3 were Ba'ath Party promoters.

¶4. (C) Unlike in his previous meetings with the Ambassador and A/DCM, Amiri defended the work of the AJC and said the some 500 names were selected according to the 2008 Accountability and Justice (de-Ba'athification) law and that the COR oversight committee for de-Ba'athification issues had approved the process. He said that when the list of barred individuals was read at the COR, it was greeted by applause from everyone and expressions of support for the AJC and the COR oversight Committee. Additionally, he said that the Iraqi people in general seemed pleased with the proceedings. As such, Amiri said that with all the bravery and pragmatism he has tried to display, he could not stand against the wave he was witnessing. "No one wants to stand up and defend the Ba'ath Party. The PM and all political leaders are worried too."

¶5. (C) With regard to how to resolve the current political crisis, Amiri described a multi-step process:

-- First, the names of the barred candidates should be given to their political entities (political parties), which should then be given a couple of days to review the evidence against the candidates and, if the party deemed the evidence was clear, it would voluntarily replace the candidates; he emphasized that this should be more straightforward for candidates who were members of Saddam's intelligence apparatuses or were senior members of the Ba'ath Party. Al-Amiri hinted that this step could significantly reduce the numbers of those who would appeal.

-- The balance of candidates on the list of 514 whom their political parties continued to support could choose to appeal. This appeal process could begin before the election, but the bulk would likely be decided beyond March 7.

-- If the appeal process could not be expedited and completed before the elections, "they" (he did not specify who, but might be referring to the main political bloc leaders, per Hakim plan) would then proceed to the previous INA proposal of obliging candidates to sign an oath and participating in the election, with the appeal process proceeding after the election. The oath would condemn the crimes of the Ba'ath Party and swear allegiance to the Iraqi constitution (and commit not to promote the Ba'ath Party now or in the future).

-- He made clear that not all 514 would have access to the appeals process.

¶6. (C) COMMENT: Amiri was clearly discomfited by the wave of support at the COR and "on the street" (as he put it) for the AJC disqualifications. He ultimately laid out for the Ambassador a plan similar to the one he described for POL A/DCM two days ago. But the confident assertion that the AJC and its three-man COR oversight body would be pushed aside and declared illegal -- which he pitched with A/DCM -- was absent today. Instead, the emphasis was on taking the AJC determinations and forcing the political parties to do a little of the "dirty work" (and take some of the political heat) by removing a significant number of the more easily

identifiable former senior Ba'athists and members of Saddam's security apparatus. END COMMENT.

17. (C) Ambassador Grappo met with Humam Hamoudi, ISCI bloc leader, earlier this afternoon to encourage quick action. According to Hamoudi 55% of those on the list were Shi'a (NOTE: The conventional wisdom here holds that "most" on the list are Sunni, but there is no authoritative breakdown by religious affiliation. Hamoudi did not explain how he derived his number. END NOTE.) Hamoudi said he felt it would be simple to resolve the current political crisis and verify who was or was not a member of the Ba'ath Party, as those who were members received a double salary (a federal salary and a Ba'ath Party bonus) from the ministries with whom they were employed. Hamoudi said that it would be possible to review the records over a period of a week to ten days and determine which candidates had held Party membership. He said that if such evidence existed, the candidate should be barred immediately.

CLOCK ON APPEALS STARTED

18. (C) IHEC Chief Electoral Officer Hamdia al-Husseini (Da'wa) confirmed that the political entities have been notified about the de-Ba'athification decision, and the three-day clock to file appeals with the Electoral Judicial Panel has begun ticking. After double checking with IHEC and UNAMI, we understand that appeals will be accepted through Saturday, January 23. We also understand that the Electoral QSaturday, January 23. We also understand that the Electoral Judicial Panel (the body for IHEC appeals) and the Cassation Chamber (the body for Accountability and Justice Commission appeals) will be looking at appeals beginning Sunday, January 24; preliminary information indicates they may even take up this function together. An office is being set up now, and IHEC has been told that everything will be done in time to meet the electoral time line. Meanwhile, Commissioner Hamdia reported that the election ballots were already being printed in Dubai.
HILL